

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARTREL PHILLIPS,

Defendant.

CASE NO. 1:20-cr-069

JUDGE McFARLAND

MOTION FOR PRELIMINARY ORDER OF FORFEITURE

The United States, by its undersigned counsel, hereby moves this Court, pursuant to Federal Rule of Criminal Procedure 32.2(b), for the issuance of a Preliminary Order of Forfeiture. This motion is supported by the record in this case and the following memorandum.

MEMORANDUM

On July 14, 2020, a grand jury in the Southern District of Ohio returned a one-count Indictment charging defendant Martrel Phillips with Illegal Possession of a Machinegun, in violation of 18 U.S.C. §§ 922(o) and 924(a)(2). (Doc. 3.)

The forfeiture allegation in the Indictment provided notice to the defendant that the United States would seek the forfeiture, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), of any firearm and ammunition involved in or used in the commission of the offense, including but not limited to the following (the “subject property”):

- Glock, Model 23, .40 S & W caliber weapon, serial number UPM534, with any attachments; and
- Approximately fifteen (15) rounds of various brands and calibers of ammunition.

(*Id.*)

On May 19, 2021, the defendant entered into a Plea Agreement with the United States in which the defendant agreed to plead guilty to Count 1 of the Indictment and agreed to the immediate forfeiture of the subject property, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), as property involved in the offense. (Doc. 37.) The defendant entered a plea of guilty to Count 1 of the Indictment on May 19, 2021. (Minute Entry dated 05/19/2021.)

Rule 32.2(b)(1)(A) of the Federal Rules of Criminal Procedure provides, in relevant part: “If the government seeks forfeiture of specific property, the court must determine whether the government has established the requisite nexus between the property and the offense.” Fed. R. Crim. P. 32.2(b)(1)(A). “The court’s determination may be based on evidence already in the record, including any written plea agreement, and on any additional evidence or information submitted by the parties and accepted by the court as relevant and reliable.” Fed. R. Crim. P. 32.2(b)(1)(B).

Based on the evidence set forth in the record, the United States asserts that it has established the requisite nexus between the subject property and the offense to which the defendant has pled guilty. Accordingly, the property is subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

WHEREFORE, the United States respectfully requests that this Court enter a Preliminary Order of Forfeiture, forfeiting the subject property to the United States.

Respectfully submitted,

VIPAL J. PATEL
Acting United States Attorney

s/John Zachary Kessler
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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2021, a copy of the foregoing United States' Motion for Preliminary Order of Forfeiture was filed with the Court's electronic filing system (CM/ECF), which will send electronic notification of such filing to all parties represented by attorneys who are registered CM/ECF users.

s/John Zachary Kessler
JOHN ZACHARY KESSLER (0090932)
Special Assistant United States Attorney